
IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

ROBERT HENDERSHOT,

Plaintiff,

v.

GURSTEL LAW FIRM, P.C., a corporation;
CHADD A. JOHNSON, an individual; and
DOES 1-10,

Defendants.

**MEMORANDUM DECISION AND
ORDER OVERRULING [23]
OBJECTION AND ADOPTING [22] THE
REPORT AND RECOMMENDATION
OF THE MAGISTRATE JUDGE**

Case No. 2:20-cv-00118-DBB-DAO

District Judge David Barlow

Before the court is Plaintiff's Objection to the Report and Recommendation of the Magistrate Judge.¹ After reviewing the initial pleading and the briefing on the Motion to Dismiss, Magistrate Judge Daphne A. Oberg recommended that the court grant Defendants' motion to dismiss the Complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure.² Plaintiff filed an objection, arguing that the Complaint satisfies the applicable pleading standard and that it therefore should survive a motion to dismiss for failure to state a claim upon which relief can be granted.³

¹ ECF No. 23.

² ECF No. 1 (Complaint); ECF No. 9 (Amended Motion to Dismiss); ECF No. 12 (Response in Opposition to Defendant's Motion to Dismiss); ECF No. 13 (Reply Memorandum in Support of Motion to Dismiss); ECF No. 22 (Report and Recommendation to Grant Amended Motion to Dismiss).

³ ECF No. 23 at 5. In the Objection, Plaintiff also requests leave to amend the Complaint "[i]n the event the Court agrees with the proposed report and recommendation." *Id.* Because this is not a proper motion to amend, the court will not address it here.

The court has conducted a de novo review of the Complaint, the briefing on the Motion to Dismiss, Judge Oberg's Report and Recommendation, and Plaintiff's Objection.⁴ The Report and Recommendation is thorough and accurate. The court adds only that while the underlying notices of dispute Plaintiff sent to American Express state that Plaintiff disputes the debt alleged by American Express, they provide no factual basis of any kind that the debt is not owed.⁵ Instead, the notices of debt simply demand 13 itemized kinds of evidence or information.

With the above addition, the court accepts and adopts the Report and Recommendation as the Order of this court. Finding the analysis to be thorough and accurate, Plaintiff's Objection is **OVERRULED** and Plaintiff's Complaint is **DISMISSED** with prejudice.

Signed January 8, 2021.

BY THE COURT



David Barlow
United States District Judge

⁴ See Fed. R. Civ. P. 72(b)(3) ("The district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to.").

⁵ See Exhibit A to Plaintiff's Complaint, ECF No. 1-1.